

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
3 Beckley Division
4 Civil Action No.: 5:14-cv-24506

5 _____
6 DAVID M. DAUGHERTY,
7 Plaintiff,

8 vs.

DEPOSITION OF:
9 EQUIFAX INFORMATION SERVICES, STEVEN F. NAPIER
10 LLC, and OCWEN LOAN SERVICING,
11 LLC,

12 Defendants.
13 _____/

14
15 TRANSCRIPT of the stenographic notes
16 of the proceedings in the above-entitled matter,
17 as taken by and before, CONNIE M. NICHOLS,
18 Registered Professional Reporter and Notary
19 Public of the State of West Virginia, held at
20 the offices of WINGATE BY WYNDHAM, 1502 Grand
21 Central Avenue, Vienna, West Virginia, on
22 Friday, August 21, 2015, commencing at 2:06 p.m.
23
24 Job No. 2123679

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I N D E X

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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STEVEN F. NAPIER

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for Steven F. Napier

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for One Community

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to subpoena

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* * *

STEVEN F. NAPIER,
being first duly sworn, was examined and deposed
as follows:

* * *

E X A M I N A T I O N

BY MR. KENNEY:

Q. Now I'd ask you to please state your
name and date of birth on the record, please.

A. Steven F. Napier, 5/14/1965.

Q. Thank you very much, Mr. Napier. My
name is Jon Kenney, and I'm the attorney that is
representing the defendant in this case, Ocwen
Loan Servicing. And we're here today for your
deposition. Have you ever given deposition
testimony before?

A. Yes, sir.

Q. And how many times have you given
deposition testimony?

A. Probably a half-dozen times.

Q. Have you ever given a Rule 30(b)(6)
deposition for One Community Federal Credit
Union?

A. No, sir.

1 Q. In the depositions that you've given
2 previously, have they been 30(b)(6) depositions
3 or have they been depositions in your personal
4 capacity?

5 A. They were more along the lines of when
6 I was in the collections field and a
7 repossession agent.

8 Q. Okay.

9 And I'll just go over a couple ground
10 rules anyway, because I just like to have it on
11 record.

12 So I'll be asking some questions
13 today, and some of them you may want to answer
14 with a "yes" or "no." And if that's the answer
15 you care to give, I just ask you to verbalize it
16 for the court reporter. Okay?

17 A. Yes, sir.

18 Q. And you understand today that you are
19 under oath just as you would be in court?

20 A. Yes, sir.

21 Q. Okay.

22 And it's very important that you
23 listen to the question that I ask, so that you
24 can give me a responsive answer. So if I ask a

1 question that you don't understand for any
2 reason, please just let me know and I'll be a
3 happy to repeat myself. Okay?

4 A. Not a problem.

5 Q. And if you need a break for any
6 reason, just let me know and I'm happy to go off
7 the record. Okay?

8 A. Okay. Thank you.

9 Q. And do you have any kind of medical
10 condition which might hinder your ability to
11 testify accurately today?

12 A. No.

13 Q. Are you taking any medication that
14 might affect your memory?

15 A. No, sir.

16 Q. Okay.

17 And I'd just like to ask you what you
18 did to prepare for your deposition today.

19 A. I met with Andrew Woofter yesterday
20 for approximately a half-hour, and kind of read
21 through the notes. And that was about it.

22 Q. Did you review any documents?

23 A. No.

24 Q. Have you had a chance to review the

1 documents that were provided to -- provided in
2 response to the subpoena, the document subpoena?

3 A. Yes.

4 Q. Okay.

5 And I understand that you had met with
6 Mr. Woofter. Had you met with anyone else to
7 discuss this deposition?

8 A. No.

9 Q. And have you talked with anyone other
10 than your attorney about this deposition?

11 A. My CEO.

12 Q. Okay.

13 And what is his or her name?

14 A. It's Randall W. Brooks.

15 Q. And just very briefly, what was the
16 nature of that conversation?

17 A. He was just curious as to what the
18 deposition was about.

19 Q. Okay.

20 So you just sort of explained what the
21 deposition was about?

22 A. Yeah, from my understanding. I just
23 explained to him what my understanding of it was
24 about.

1 Q. Okay.

2 Are you aware that the plaintiff in
3 this case, Mr. Daugherty, had filed a complaint?

4 A. Yes.

5 Q. And have you had a chance to review
6 that complaint?

7 A. I quickly read through it this
8 morning. It was the first time I'd seen it.

9 Q. And what is your understanding of this
10 lawsuit?

11 A. My understanding is that there was an
12 error that was reported on a credit bureau
13 incorrectly, and he was trying to get it
14 resolved. And that was basically it, in a
15 nutshell.

16 Q. Okay.

17 And so what is it that you -- what is
18 it that, in your understanding, that my client,
19 Ocwen, did wrong in this case?

20 A. From my understanding, it was
21 something that was reported on the credit bureau
22 in error, and they just haven't been able to get
23 it resolved or corrected on the credit report.

24 Q. Okay.

1 Is there anything else?

2 A. From my understanding, as a result of
3 that, then he has had a hard time getting
4 refinanced on his loan.

5 Q. Okay.

6 And I'd just like to ask a couple
7 questions about you. Can you tell me about your
8 education. What is the highest level of
9 education that you received?

10 A. Got a bachelor's degree in business
11 administration from Glenville State College.

12 Q. Okay.

13 And how long have you been working for
14 One Community?

15 A. I have been with One Community since
16 2006, but in the credit union business since
17 1995.

18 Q. And what is your current position with
19 One Community?

20 A. The operations manager.

21 Q. And when you were hired at One
22 Community, what was your position?

23 A. Operations manager.

24 Q. So is it fair to say that the entire

1 span of your employment with One Community, you
2 have been the operations manager?

3 A. Yes, sir.

4 Q. Okay.

5 And what are your duties as operations
6 manager?

7 A. I have multiple duties, as far as the
8 oversight of the -- overall general operations
9 of the credit union and as far as supervision of
10 its staff, procedures and policies.

11 Q. Okay.

12 And did you receive any sort of
13 specialized training, other than your
14 bachelor's, before taking this position?

15 A. Just various training throughout the
16 years of being in the credit union movement, as
17 far as seminars or Webinars, things along that
18 nature.

19 Q. And is this just internal training
20 that's done by the bank?

21 A. No, most of it was done either by
22 League Services or other third-party
23 institutions.

24 Q. Okay.

1 And I know you had mentioned earlier
2 that before you were at One Community you were
3 in the collections industry. So what was your
4 most recent employment before One Community?

5 A. Before One Community Federal Credit
6 Union I was working at -- let me think here. I
7 came from Mountain Heritage Federal Credit
8 Union. It was formerly the IRS credit union,
9 where I was the assistant manager there. And
10 that was basically collections/operational.

11 Q. And about how long did you work there?

12 A. Approximately two years.

13 Q. And what were your responsibilities as
14 the assistant manager there?

15 A. We had multiple branches throughout
16 the state of West Virginia. We revamped the
17 loan policies and procedures in collection
18 efforts, and supervision of staff.

19 Q. Okay.

20 And if you will, take a look at the
21 Notice of Deposition for Steve Napier.

22 MR. KENNEY: And I believe this
23 should be what's marked under tab 3, and we can
24 just mark it Exhibit 1.

1 * * *

2 (Whereupon, Napier Deposition Exhibit 1
3 was marked for purposes of
4 identification.)

5 * * *

6 BY MR. KENNEY:

7 Q. Have you had a chance to review this
8 document?

9 A. Yes.

10 Q. And are you willing to testify to the
11 matters set out in this notice?

12 A. Yes.

13 Q. Okay.

14 And I'd like you to next look at the
15 Amended Notice of Deposition for One Community.

16 MR. KENNEY: And we can mark this
17 as Exhibit 2.

18 * * *

19 (Whereupon, Napier Deposition Exhibit 2
20 was marked for purposes of
21 identification.)

22 * * *

23 BY MR. KENNEY:

24 Q. And, Mr. Napier, have you had a chance

1 to review this document?

2 A. Yes.

3 Q. And are you the person who's been
4 designated to testify as the matters set forth
5 in this deposition?

6 A. Yes.

7 Q. And are you willing to testify about
8 the matters set out in the list of designated
9 topics?

10 A. Yes.

11 Q. And do you understand that you're
12 testifying today both in your personal capacity
13 and as the representative of One Community?

14 A. Yes, sir.

15 Q. And do you understand that the answers
16 that you give today are binding on One
17 Community?

18 A. Yes, sir.

19 Q. Okay.

20 I'd just like to ask you now a couple
21 of questions about your relationship with the
22 plaintiff in this case, Mr. Daugherty. Do you
23 recall when you first met Mr. Daugherty?

24 A. It was many years ago. Many, many

1 years ago at a former credit union that I used
2 to work at. He was one of our members in
3 another credit union I used to work at years
4 ago.

5 Q. Okay.

6 And so do you have an approximation?
7 Has it been 10 years? Twenty years?

8 A. If I had to guess, I would say it's
9 probably been around 10 years ago.

10 Q. Okay.

11 And when you had moved over to One
12 Community, is this about the time that
13 Mr. Daugherty had moved over to One Community?

14 A. I think Mr. Daugherty had been at One
15 Community long before I got there. I think he
16 was a member there long before that time.

17 Q. Okay.

18 And specifically about, in the last
19 three years or so, I understand Mr. Daugherty
20 had got a couple loans from One Community; is
21 that right?

22 A. I think that he had gotten some car
23 loans and maybe some unsecured loans with One
24 Community during that time.

1 Q. And did he ever interact with you when
2 trying to get any of the loans, the car loan?

3 A. Most of the time the loan officers
4 dealt with David.

5 Q. Had you ever dealt with him directly?

6 A. Not directly on a loan. I would
7 sometimes look at some of his requests after the
8 fact.

9 Q. Do you know if you ever discussed
10 applying for or being denied for credit as a
11 result of what appeared on his credit report?

12 A. Not until this mortgage loan. When he
13 was looking to refinance his house with us,
14 Debbie Lee is actually the first person that
15 talked with him. And for One Community
16 procedures, if there's a person that's in
17 bankruptcy or foreclosure, then we're not
18 allowed to proceed with that loan, as far as
19 doing any further steps into that loan.

20 Q. Do you recall when Mr. Daugherty had
21 first spoken with One Community regarding
22 attempting to refinance this property?

23 A. Debbie Lee had brought that to my
24 attention and wanted to know if there was

1 anything we could do for him. But I told him
2 with the foreclosure, we couldn't proceed any
3 further with that.

4 Q. Do you recall when he first sought to
5 refinance with One Community?

6 A. No, I don't remember the exact dates.

7 Q. And did he ever tell you or anyone at
8 One Community that his credit report was
9 reflecting the property as being in foreclosure?

10 A. No, the only thing he said that he had
11 some credit report issues that were in error,
12 that they weren't correct.

13 Q. Did he tell you anything -- did he
14 tell you or One Community anything specifically
15 about the Ocwen tradelines that were appearing
16 on his credit report?

17 A. The only thing he said was Ocwen had
18 things on his credit report that were not
19 correct, is basically all that he said, until we
20 actually pulled credit on him.

21 Q. Okay.

22 And how many times did Mr. Daugherty
23 meet with One Community to discuss this
24 refinance?

1 A. I believe that he met with Debbie Lee
2 one time. And there -- he came into my office
3 one time and talked with me about the
4 possibilities of it. So a total of just two
5 times, that I can remember.

6 Q. Were there any other employees at One
7 Community that worked with Mr. Daugherty about
8 this refinance?

9 A. Not on the mortgage, no.

10 Q. And I know that you had said that he
11 had spoken within Debbie Lee and he had spoken
12 with you. Do you recall when he had spoken with
13 you?

14 A. If I had to guess, I would say it was
15 probably maybe May of 2014, possibly. Somewhere
16 in that time frame.

17 Q. And do you recall when he had first
18 spoken with Debbie Lee?

19 A. I would say it was probably within
20 that same month. And don't quote me on that,
21 I'm not exactly sure of those dates.

22 Q. Okay.

23 And I'd like to ask you now just a
24 couple questions about the documents that were

1 produced in response to the subpoena. I'd first
2 like to look at the -- it looks to be some
3 computer notes.

4 MR. KENNEY: I believe these were
5 what was previously marked as tab 7, and I'd
6 like to have those marked as Exhibit 3.

7 * * *

8 (Whereupon, Napier Deposition Exhibit 3
9 was marked for purposes of
10 identification.)

11 * * *

12 BY MR. KENNEY:

13 Q. Mr. Napier, are you familiar with this
14 screen print?

15 A. Yes, sir.

16 Q. And can you just describe generally
17 what this is?

18 A. This is basically a loan officer's
19 comments about a loan that is being applied for.
20 And this is where they put their notes in there,
21 so two months down the road we can remember why
22 we did what we did.

23 Q. So this was not Debbie Lee or you,
24 this is a separate employee at One Community?

1 A. Yes, sir. That 001 up there in the
2 square, and it's got the 731, that 001 is a
3 teller ID. And that belongs to our loan officer
4 named Stacy Darling. So this would be her
5 notes.

6 Q. Okay.

7 But Mrs. Darling didn't have any
8 direct interaction with Mr. Daugherty; is that
9 right?

10 A. Not about the mortgage loan, correct.

11 Q. And this was just her notes after
12 reviewing his file, correct?

13 A. Correct. About a consumer loan.

14 Q. And these notes, the first one here
15 appears to be dated July 23, 2014, at
16 10:38 a.m.; is that right?

17 A. Yes, sir.

18 Q. And is that the date that this note
19 would have been entered?

20 A. Correct.

21 Q. And just going through the notes here,
22 I see it mentions a couple tax liens. Are you
23 aware of any tax liens that were appearing on
24 Mr. Daugherty's credit report?

1 A. Yes, sir.

2 Q. And what is your understanding of
3 those tax liens?

4 A. They, from my understanding, they were
5 federal or state tax liens. I think they were
6 federal tax liens.

7 Q. And these were outstanding, nonpaid
8 liens?

9 A. Yes, sir, they were outstanding liens.
10 That was part of the reason he was asking for
11 the refinance, I believe, was to refinance a
12 house and pay those tax liens.

13 Q. Okay.

14 And it looks like there's a note in
15 here about a van -- it's notated, it says:
16 "Member wants loan to repair van instead of
17 taking on a new car payment. LTV" -- which I
18 imagine stands for "loan to value." Is that
19 correct?

20 A. Yes, sir.

21 Q. Okay.

22 And so these are notes with regard to
23 a consumer loan to repair a van, it appears; is
24 that correct?

1 A. Correct.

2 Q. Okay.

3 And on the next page, there's a
4 another entry of notes underneath this note, and
5 this one looks like it's also dated July 24,
6 2014. And it looks like it says: "I've known
7 Dave for a long time. I believe he will pay.
8 Other income not included from the business.
9 Value of the van will cover most of the loan if
10 push comes to shove."

11 And it looks like this is your name;
12 is that right?

13 A. Yes, sir.

14 Q. So was this an entry that was made by
15 you?

16 A. Yes.

17 Q. So when Mr. Daugherty was applying for
18 this consumer loan, what was the process for
19 that? The consumer loan with regard to this van
20 that's being spoken of in these notes here, what
21 was the process for applying for that loan?

22 A. He would have come in and talked to
23 Stacy Darling and applied for the loan. And if
24 I remember correctly, Stacy come around and had

1 talked to me about the loan, wanted to make sure
2 we were comfortable granting the loan for the
3 van repairs.

4 Q. Was there any formal application that
5 was made with regard to this private consumer
6 loan?

7 A. Yes.

8 Q. And what did that application involve?

9 A. What a normal process you go through
10 for an application: name, address, Social
11 Security number, income.

12 Q. Was there a credit check that was done
13 with regard to this loan?

14 A. I'm almost positive there was, yes.

15 Q. And that credit check, would that have
16 been done within the same time period, July 24,
17 2014?

18 A. Yes, sir.

19 Q. And it looks like he was ultimately
20 approved for this loan; is that right?

21 A. Correct.

22 Q. Okay.

23 And I'd like to turn now to the
24 affidavit that you had submitted.

1 MR. KENNEY: And this is tab 6, and
2 we can mark this Exhibit 4.

3 * * *

4 (Whereupon, Napier Deposition Exhibit 4
5 was marked for purposes of
6 identification.)

7 * * *

8 BY MR. KENNEY:

9 Q. Mr. Napier, are you familiar with this
10 document?

11 A. Yes, sir.

12 Q. And this is an affidavit that was
13 executed by you; is that correct?

14 A. Correct.

15 Q. Did you write this affidavit?

16 A. Yes.

17 Q. I'd like to turn to paragraph 4 here,
18 which says: "One Community Federal Credit Union
19 procedures require that the lending process ends
20 if an applicant is in bankruptcy or
21 foreclosure."

22 A. Okay.

23 Q. Is that right?

24 A. Yes, sir.

1 Q. And I understand that the context that
2 this is in was that because there was a
3 foreclosure appearing on Mr. Daugherty's credit
4 report, there was no further inquiry in the
5 application process; is that right?

6 A. Correct. We couldn't proceed any
7 further with the process.

8 Q. And how did you know that the
9 foreclosure was appearing?

10 A. It showed up on his Tri-Merge credit
11 report, when Debbie Lee pulled credit on
12 Mr. Daugherty.

13 Q. So in connection with this refinance,
14 you had actually run a credit inquiry; is that
15 right?

16 A. Yes.

17 Q. And going back to this affidavit,
18 paragraph 5 says: "Although Mr. Daugherty had
19 state tax liens on his credit report and other
20 collections, the Credit Union may have offered a
21 loan to Mr. Daugherty because of his history
22 with the Credit Union."

23 Is that correct?

24 A. Yes, sir.

1 Q. And I understand you have written here
2 the word "may." And so I just want to ask: You
3 can't say with reasonable certainty that One
4 Community would have offered a loan; is that
5 correct?

6 A. Correct. Too many variables.

7 Q. And you have here at the bottom of it:
8 "May have offered a loan to Mr. Daugherty
9 because of his history with the Credit Union."

10 However it's not a -- it's not a
11 common practice to approve loans simply because
12 of a relationship with One Community; is that
13 right?

14 A. It depends on the situation and the
15 individual.

16 Q. If there were adverse tradelines
17 appearing on a consumer's credit report, it
18 would not be the normal practice of One
19 Community to approve a loan for that consumer
20 simply on the basis of their relationship with
21 the bank -- well, let me rephrase that.

22 If there were adverse tradelines on a
23 consumer's credit report, it wouldn't be the
24 normal practice of One Community to approve a